1	HOUSE BILL NO. 35
2	INTRODUCED BY BARDANOUVE
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS BELATING TO COVERAGE FOR MONTANA PUBLIC
6	EMPLOYEES UNDER FEDERAL SOCIAL SECURITY; AMENDING SECTIONS
7	59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
8	59-1110, 59-1111, AND 59-1112, R.C.M. 1947."
9	
0	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA:
1	Section 1. Section 59-1102, R.C.M. 1947, is amended to
2	read as follows:
3	*59-1102. Definitions. For the purposes of this act— $_{\perp}$
4	the following definitions apply:
5	$\frac{a}{1}$ The term "wages" means all remuneration for
6	employment as defined herein, including the cash value of
7	all remuneration paid in any medium other than cash, except
18	that such the term shall does not include that part of such
9	remuneration which, even if it were for "employment" within
20	the meaning of the Federal Insurance Contributions Act,
1	would not constitute "wages" within the meaning of that
2	act+•
23	(b)(2) (a) The term "employment" means any service
24	performed by an employee in the employ of the state, or any
	nolitical subdivision thereof, for such amplever except:

1	(1) (i) service w
2	entered into under this
3	defined in the Social
4	(2) (ii) service w
5	not be included in
6	secretary of health, ed
7	under this act.
8	(b) Service per
9	national guard units is
10	term "employment.".
11	(c) Service which
12	included in an agree
13	governor in accordance
14	shall be <u>is</u> included
15	the governor issues,
16	certificate to the
17	welfare pursuant to see
18	(c) (3) The term
19	appointive officer of
20	subdivision thereof+:
21	(d) (4) The term
22	administration of the
23	the state of Montana+.

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(1) (i) service which in the absence of an agreement red into under this act would constitute "employment" as ned in the Social Security Act; or-(2) (ii) service which under the Social Security Act may be included in an agreement between the state and the etary of health, education, and welfare entered into r this act. (b) Service performed by civilian employees of onal quard units is specifically included within the "employment-". (c) Service which under the Social Security Act may be uded in an agreement only upon certification by the rnor in accordance with section 218(d)(3) of that act 1 he is included in the term "employment" if and when governor issues, with respect to such service, a ificate to the secretary of health, education, and are pursuant to section 59-1102.1-(b)+(5). (a) (3) The term "employee" includes an elective or intive officer or employee of the state or a political ivision thereof+. (d) (4) The term "state agency" means the board of

welfare" means the secretary of the United States department

nistration of the public employees' retirement system of

(e) (5) The term "secretary of health, education, and

of health, education, and welfare; and includes any 1 individual to whom the secretary of health, education, and 2 welfare has delegated any of his functions under the Social 3 Security Act with respect to coverage under such that act of 5 employees of states and their political subdivisions, and, with respect to any action taken prior to April 11. 1953. 7 includes the federal security administrator and any 8 individual to whom such the administrator had delegated any such function+.

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(f) (6) The term "political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues associations thereof, but only if such the instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by wirtue of their relation to such the juristic entity employees of the state or subdivision. The term shall includes special districts or authorities created by the legislature or local governments, such as, but not limited to, school districts, housing authorities, etc.+

(9) (7) The term "Social Security Act" means the act of Congress congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," -{including regulations and requirements issued pursuant thereto, as such act has been and may from time to time be amended -- and .

(h) (8) The term "Federal Insurance Contributions Act" 3 means subchapter A of chapter 9 of the Federal Internal 4 Revenue Code of 1939 and subchapters A and B of chapter 21 6 of the Federal Internal Revenue Code of 1954, as such codes 7 have been and may from time to time be amended; and the term "employee tar" means the tax imposed by section 1400 of such 9 Code of 1939 and section 3101 of such Code of 1954, and as 10 such codes may from time to time be amended."

11 Section 2. Section 59-1102.1, R.C.H. 1947, is amended 12 to read as follows:

*59-1102.1. Referendum certification. 13 and (1) (a) Pursuant to section 218(d)(6) of the Social 14 15 Security Act, the public employees' retirement system of the 16 state of Montana shall is, for the purposes of this act, be 17 deemed to constitute considered a separate retirement system with respect to the state and a separate retirement system 18 19 with respect to each political subdivision having positions 20 covered thereby.

21 (b) Pursuant to section 218(p)(1) of the Social Security Act, the highway patrolmen's retirement system of 22 the state of Montana, the public employees' retirement 23 24 system of the state of Montana, and each municipal police 25 reserve fund and each unit of the statewide police reserve

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fund of the state of Montana are, for the purposes of this act, considered separate retirement systems with respect to the state and separate retirement systems with respect to each political subdivision having positions covered thereby.

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<u>121</u> With respect to employees of the state <u>other than</u>

<u>highway patrolmen and with respect to highway patrolmen</u>, the

governor is empowered to authorize a referendum, and with

respect to the employees of any political subdivision he

shall authorize a referendum upon <u>the</u> request of the

governing body of such the subdivision—and.

13) in In either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under this act.

(4) The notice of referendum required by section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem considers necessary and sufficient, to inform informing the employees of the rights which will accrue to them and their

dependents and survivors, and the liabilities to which they
will be subject, if their services are included under an
agreement under this act.

(b) -- Pursuant to section 218 -- (p) -- (1) -- of the Social Security Act, the bighway patrolmen's retirement system of the state of Mostana, and the public esployees - retirement system of the state of Montana and the matropolitan police retirement system of the various sities of Montage shall, for the purposes of this act be deemed to constitute soparato-retirement-systems with-respect to the state-and soparate - retirement - systems - with respect to each political subdivision having portions sovered thereby. Bith respect to highway patrolmon of the state the governor is empowered to authorizo--a-roforondus-and-with-rospect-to-the-osploross-of any political cubdivicion-ho-chall -- authorise -- a -- referendum upon request of the governing body of such subdivision and in either case the referendum shall be conducted, and the qovoraor -- sball -- dosignato -- an -- aqonoy -- or -- individual -- to supervise its conduct, is accordance with the requirements of gestion 218 (d) (3) of the Social Security Act, on the question of whother corvide in positions covered by a retirement system established by the state or by a political sabdivision thereof should be excluded from or included wader-this act. The notice-of-referendum-required by section 218 (d) (3) (6) of the Social Security Act to be given to

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osployees shall contain or shall be accompanied by a

statementy in such form and such detail as the agency or

individual designated to supervise the referendum shall deem

necessary and sufficienty to inform the employees of the

rights which will account to them and their dependents and

survivorsy and the liabilities to which they will be

subjecty if their services are included under an agreement

under this act.

(c) (5) Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education, and welfare."

Section 3. Section 59-1104, R.C.E. 1947, is amended to read as follows:

"59-1104. Plans for coverage of employees of political subdivisions. (a)(1) Each political subdivision of the state shall submit for approval by the state agency a plan for extending the benefits of title Title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such A plan and any amendment thereof shall be approved by the state agency if it finds that such the plan, or such the plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except

1 that,

(2) no such No plan shall may be approved unless:

3 (1) (a) it is in conformity with the requirements of
4 the Social Security Act and with the agreement entered into
5 under section 59-1103:

(2) (b) it provides that all services which constitute employment as defined in section 59-1102 and are performed in the employ of the political subdivisions by employees thereof, shall will be covered by the plan, except that it may exclude services performed by individuals to whom section 218(c)(3)(C) of the Social Security Act is applicable;

(3) (C) it specifies the source or sources from which the funds necessary to make the payments required by paragraph (1) of subsection (6) and by subsection (d) subsections (4) (a) and (5) are expected to be derived and contains reasonable assurance that such the sources will be adequate for such purpose;

(4) (d) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;

23 (5)(e) it provides that the political subdivision will
24 make such reports, in such form and containing such
25 information, as the state agency may from time to time

1 require, and will comply with such provisions as the state
2 agency or the secretary of health, education, and welfare
3 may from time to time find necessary to assure the
4 correctness and verification of such reports:

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discretion, to terminate the plan in its entirety, in its discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such the plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the Social Security act.

(b)(3) The state agency shall say not finally refuse to approve a plan subsitted by a political subdivision under subsection (a) (1) and shall say not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(c) (4) (4) (a) Each political subdivision as to which a plan has been approved under this section shall pay, at such time or times as the state agency may prescribe by regulation, contributions with respect to wages (as defined in section 59-1102), at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable

1 agreement entered into by the state agency under sostion
2 59-1102-1 <u>59-1103</u>.

3 (2) (b) Each political subdivision required to make payment under paragraph (1) of this subsection subsection (4) (a) shall, in consideration of the employee's retention in, or entry upon, employment after enactment of this act, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages (as defined in section 59-1102), not exceeding the 10 amount of the employee tax which would be imposed by the 11 Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and 12 13 to shall deduct the amount of such contributions from his 14 wages as and when paid. Contributions so collected shall 15 partially discharge the liability of such the political 16 subdivision or instrumentality under paragraph (1) of this 17 subsection subsection (4)(a). Pailure to deduct such the 18 contribution shall does not relieve the employee or employer of liability therefor. 19

(d) (5) Delinquent payments due under paragraph (1) of subsection (4) (a) may, with interest at the rate of six per sentum (6%) per annum a year, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor, or may, at the request of the state agency, be deducted from any other

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moneys payable to such the subdivision by any department, agency, or fund of the state."

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- 3 Section 4. Section 59-1105, R.C.H. 1947, is amended to 4 read as follows:
- 5 #59-1105. Contribution account. (a) (1) There is
 6 hereby established, in place of the fund known as the
 7 contribution fund, a contribution account an agency account
 6 for the social security program in the agency fund, to be
 9 known as the contribution account.
- 10 <u>121 Such The contribution</u> account shall consist of and 11 there shall be deposited in such account:
- 12 (4)(a) all contributions, interest, and penalties
 13 collected under sections 59-1103.1 and 59-1104;
- 14 (2)(b) all moneys appropriated thereto by the
 15 legislative assembly legislature of the state of Montana;
 16 and
- 17 (3)(c) all sums recovered upon the bond of the
 18 custodian or otherwise for losses sustained by the account;
 19 and
- 20 (d) all other moneys received for the account from any other source.
- 22 (3) All moneys in the account shall be mingled and undivided. Subject to the provisions of this act, the state 24 agency is vested with full power, authority, and 25 jurisdiction over the account, including all moneys and

- property or securities belonging theretog it . The board of investments shall invest the same account in investments of 3 the same character as are permitted by sestion 79-1202 of this code 79-310 for the investment of moneys in the long-term investment fund, and The state agency shall credit all interest and income heretofore or hereafter earned therees on the account in excess of that which, in the its judgment of the otate agency, may be needed for the purposes 9 set forth in subdivision (b) subsection (4) of this section, to the earmarked revenue fund or funds of the state agency, 11 to be used by it either to defray the costs of administering 12 the state agency, or for distribution pro rata to the 13 contributing state departments, political subdivisions, school districts, and instrumentalities, as it may 14 determine - and . It may perform any and all acts, whether or 15 not specifically designated, which are necessary to the 16 17 administration thereof of the account and are consistent with the provisions of this act. 18
- 19 (b) (4) The contribution account shall be used and
 20 administered exclusively for the purpose of this act.
 21 Subject to the provisions of subdivision (3) subsection (3)
 22 of this section, withdrawals from such the account shall be
 23 made for, and solely for, (4) payment of amounts required to
 24 be paid to the secretary of the treasury of the United
 25 States pursuant to an agreement entered into under section

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59-1103+2 (8) payment of refunds provided for in section 59-1103.1+2 and (6) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

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(e) (5) (a) From the contribution account the custodian of the account shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 59-1102.1 59-1103 and the Social Security Act.

(d)(b) The treasurer of the state shall pay all warrants drawn upon the state agency in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

(e) [6] Each department of the state shall include in its operating budget for the next succeeding fiscal year, prepared and delivered to the department of administration in accordance with the provisions of law, an estimate of the amount which it will be required to contribute to the contribution account."

Section 5. Section 59-1106, R.C.M. 1947, is amended to read as follows:

23 **59-1106. Costs of administration. All costs allocable
24 to the administration of this chapter shall be charged to
25 the earmarked revenue fund, social socurity retirement

division account, and so, So much of such the costs as are 2 not defrayed by interest and income earned upon the contributions fund contribution account, which has been credited to said the earmarked revenue fund, sesial sesurity 5 retirement division account, as provided in section 59-1105, shall be paid to the state agency for deposit to the 7 earmarked revenue fund, social security retirement division account, by each department of the state and by the 9 participating divisions, and instrumentalities, 10 political subdivisions of the state pro rata according to 11 their respective contributions. *

12 Section 6. Section 59-1109, R.C.B. 1947, is amended to 13 read as follows:

Referendum by school district. Law A school district of the state, may, upon the approval thereof being voted by the board of trustees, conduct and supervise a referendum, pursuant to section 218 of the Federal Social Security Act, among the members of the staff and teachers of the school or schools under the jurisdiction of such the board of trustees. If the majority of votes cast in any such the referendum indicates that said the staff and teachers approve, then such the board of trustees shall certify to the state department of revenue (or such other agency as may be by legislation designated to administer such program and

oator into agreeonts for extensions of social security coverage) department of administration that the conditions 2 for coverage by social security, required by section 218 of the Social Security Act, have been complied with." 5 Section 7. Section 59-1110, R.C.M. 1947, is amended to read as follows: *59-1110. Eliqibility of staff and teachers - payroll deductions. (1) Pursuant to such Upon the certification provided for in 59-1109, the staff and teachers of any such the district shall be are eligible for coverage under the 11 provisions of the Pederal Social Security Act, and. 12 (2) the The fiscal officer of such the district shall 13 thereafter collect the contributions required under the 14 Pederal Social Security Act, section 218, by payroll 15 deduction from the staff and teachers by payroll deduction and from the school district as employer, and said. The 17 funds and assounts collected shall be deposited with the

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23 (3) For the purposes of this act, the contributions with respect to services, equivalent to the employer's tax 25 established by the Pederal Social Security Act, shall be are

provided by sections 59-1101 to through 59-1108.

state department of revenue, or such other according be

designated by the legislature to administer Secial Security

Act coverage in this state, department of administration and

held in the contributions - fund contribution account as

the first obligation against any state funds received for school support by any school district, high school district. 2 or county high school, and shall first be paid therefrom 3 before any other expenditure."

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5 Section 8. Section 59-1111, R.C.M. 1947, is amended to read as follows:

7 #59-1111. For-purposes of act, cash state institution of higher education deemed to have a coparate retirement system referendum - administration Participation of institutions of higher eduction. (a) (1) For the purposes of 10 this section of this act, there shall be doesed to be the 11 12 teachers' retirement system of the state of Montana is 13 considered a separate retirement system for the teachers of with respect to each state institution of higher education 14 in Montana, and each such institution and the teachers 15 therein shall be treated separately and independently from 16 17 the other such institutions and teachers.

(b) (2) On request of the president of any such an 18 19 institution, the governor shall designate an agency or individual to give notice of and supervise a referendum in 20 the retirement system for that institution in compliance 21 with the requisitor therefore requirements prescribed by 22 section 218 of the Federal Social Security Act. 23

(c) (3) If the majority of votes cast in any such the 24 referendum indicates that the majority of voters desire it, 25

them the governor shall certify to the federal secretary of health, education, and welfare that each of the conditions set forth in section 218 of the Social Security Act has have been complied with in respect to the retirement system yoting in that the referendum.

(4) Upon such certification, the governor shall designate an official to enter into an agreement, for a 7 modification or supplement to an existing agreement, or both 8 such a modification and a supplement , with the appropriate 9 officers of the federal government, pursuant to section 218 10 of the said Social Security Act, to secure coverage 11 thereunder for the retirement system with respect to which 12 13 such certification has been made. Such agreements An agreement may be made retroactive to the extent permissible 14 15 under the Social Security Act.

(e) (5) The fiscal officer for each an institution for whose retirement system an agreement has been see made shall collect the contributions required by said section 218, as follows:

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(1) (a) from the teachers in the retirement system of that institution, by payroll deductions; and

(2)(b) for from the state, from any appropriations to the institution involved for salaries, or ethorwise made available, to the institution involved other purposes.

25 <u>(6)</u> In the absence of \underline{a} specific provision in the

appropriations for, or budget of, such an institution for such contributions, the state beard of education board of regents of higher education shall designate the funds from which ear such the required contributions shall will be made and the budgetary items to which they shall will be allocated.

7 (f) (7) In the event that any relevant provisions of 8 federal law are amended or superseded, then the provisions 9 hereof which relate to such law shall be applied to such the 10 amended law or such the superseding law."

11 Section 9. Section 59-1112, R.C.M. 1947, is amended to 12 read as follows:

13 *59-1112. Social security coverage not to prejudice 14 other No effect on rights under other laws. Nothing in this act shall may be construed to prejudice or otherwise affect 15 16 any rights, benefits, or privileges heretofore accrued under 17 any other law of this state; it being. It is the intent of 18 this legislation to permit supplementation of present 19 retirement benefits under existing law with social security 20 benefits, and, It is also the intent to permit members of 21 teaching or staff personnel teachers and staff in any 22 district or institution of higher education, so electing, to 23 become a member members of more than one retirement system, to receive credit under more than one system for the same 24 25 service, and to receive benefits from more than one such

- 1 system—and no benefits received under either system
- 2 shall may be deducted from any other or separate system."

-End-

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LC 0025

1977	Legislature			
Code	Commissioner	Bill	_	Summary

<u>House</u> B	3i11	No.	35	
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TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO COVERAGE FOR PUBLIC EMPLOYEES IN MONTANA UNDER FEDERAL SOCIAL SECURITY.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. <u>59-1102</u>. Definitions. In subsection (b), the internal reference to 59-1102.1(b) has been changed to 59-1102.1(c) to correct an error which arose when 59-1102.1 was amended by Section 2, Ch. 22, L. 1974, which redesignated subsection (b) as subsection (c). In turn, 59-1102.1(c) has been changed to 59-1102.1(5) since 59-1102.1 is being amended and it's subsections renumbered again.

Section 2. <u>59-1102.1</u> Referendum and certification. Former subsection (b) has been incorporated into subsection (l) and the reference to "the metropolitan police, retirement system of the various cities of Montana" changed to "each municipal police reserve fund and each unit of the statewide police reserve fund of the state of Montana" in order to <u>update the terminology</u>, make provision for the newly created statewide fund, and make it clear that each unit is treated separately. "Portions" near the end of the first sentence becomes "positions" to correct an apparent error.

Section 3. <u>59-1104</u>. Plans for employees of political subdivisions. In subsection (4)(a) formerly (c)(1), the internal reference to 59-1102.1 is changed to 59-1103. The original session law, Sec. 4, Ch. 44, L. 1953, referred to section 3 of that act, which became 59-1103. However, Ch 270, L. 1955 purported to amend Ch. 44, L. 1953 -- 59-1103 was moved from section 3 of the last act to section 4 and the new section 3 of the act became 59-1102.1. Through an oversight, the internal reference in 59-1104 was not changed. It is being amended now to correct the oversight.

In subsection (c)(2), "to deduct" is changed to "shall deduct" to correct an apparent error.

Section 4. 59-1105. Contribution account. Added reference to "agency account for the social security program" to clarify - that is what the contribution account is called by the administrators and the treasurer. In subsection (5)(a), the internal reference to 59-1102.1 changed to 59-1103 for same reason as amendment made to 59-1104(c)(1). In subsection (3), the internal reference to 79-1202 is changed to 79-310 since 79-1202 has been repealed and replaced by 79-310. Also in subsection (3), changed "it" to "The board of investments" to account for recent changes in the law - Article VIII, Section 13 of the 1972 constitution mandates a unified investment program for public funds; 79-308 and 82A-204 implement the mandate; 82A-204(4) provides that the board of investments has the sole authority to invest public funds. Deleted "heretofore or hereafter" in the next sentence - superfluous.

Section 5. 59-1106. Costs of administration. Changed "social security division account" to "retirement division account" to accord with actual accounting procedures - all the retirement accounts are put into one account. "Contributions fund" is changed to "contribution account" to correct terminology -- see 59-1105(a) which mandates the change in terminology.

Section 6. 59-1109. Referendum by school district. "State dept. of revenue (or such other ... coverage)" is amended to read "dept. of administration" to specify what the "other agency" is that the legislature has designated -- see 82A-201.1(2).

Section 7. <u>59-1110</u>. Eligibility of staff and teachers -payroll deductions. <u>Same change as in 59-1109</u>. "Contributions'
fund" is changed to "contribution account" for <u>same reason as</u>
under 59-1106.

Section 8. 59-1111. Participation of institutions of higher education. In subsection (5)(b) formerly (e)(2), "for" is changed to "other purposes" for clarification. In addition, "state board of education" is changed to "board of regents of higher education" under the authority of 75-5617(2), which reassigns the power.

Section 9. 59-1112. No effect on rights under other laws. "Members of teaching or staff personnel" is changed to "teachers and staff" and "a member" to "members" for clarification.

Approved by Committee on State Administration

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7	59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
8	59-1110, 59-1111, AND 59-1112, R.C.M. 1947."
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0	BE IT EFACTED BY THE LEGISLATURE OF THE STATE OF HONTANA:
1	Section 1. Section 59-1102, R.C.M. 1947, is amended to
2	read as follows:
13	*59-1102. Definitions. For the purposes of this act-2
14	the following definitions apply:
15	(a) [1] The term "wages" means all remuneration for
16	employment as defined herein, including the cash value of
7	all remuneration paid in any medium other than cash, except
18	that such the term shall does not include that part of such
19	remuneration which, even if it were for "employment" within
20	the meaning of the Federal Insurance Contributions Act,
21	would not constitute "wages" within the meaning of that
22	act+2
23	(b) (2) (a) The term "employment" means any service
24	performed by an employee in the employ of the state, or any
25	political subdivision thereof, for such employer, except:

1	$\frac{(1)}{(1)}$ service which in the absence of an agreement
2	entered into under this act would constitute "employment" a
3	defined in the Social Security Act; or,
4	(2)(ii) service which under the Social Security Act ma
5	not be included in an agreement between the state and the
6	secretary of health, education, and welfare entered into
7	under this act.
8	(b) Service performed by civilian employees o
9	national guard units is specifically included within the
10	tera "employment-".
11	(c) Service which under the Social Security Act may be
12	included in an agreement only upon certification by the
13	governor in accordance with section 218(d)(3) of that ac
14	shall be <u>is</u> included in the term "employment" if and when
15	the governor issues, with respect to such service,
16	certificate to the secretary of health, education, and
17	welfare pursuant to section 59-1102.1-(b)+(5).
18	(c) (3) The term "employee" includes an elective o
19	appointive officer or employee of the state or a politica.
20	subdivision thereof+2
21	$\frac{(d)}{(d)}$ The term "state agency" means the board o
22	administration of the public employees' retirement system of
23	the state of Montanat.
24	$\frac{(e)(5)}{(6)}$ The term "secretary of health, education, and

welfare" means the secretary of the United States department

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of health, education, and welfare; and includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the Social Security act with respect to coverage under such that act of employees of states and their political subdivisions; and, with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such the administrator had delegated any such function;

(f) The term "political subdivision" includes an 10 11 instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of 12 13 its political subdivisions, including leagues 14 associations thereof, but only if such the instrumentality 15 is a juristic entity which is legally separate and distinct 16 from the state or subdivision and only if its employees are 17 not by virtue of their relation to such the juristic entity 18 employees of the state or subdivision. The term shall 19 include includes special districts or authorities created by 20 the legislature or local governments, such as, but not 21 limited to, school districts, housing authorities, etc.+

22 (5) (7) The term "Social Security Act" means the act of
23 Congress congress approved August 14, 1935, chapter 531, 49
24 Stat. 620, officially cited as the "Social Security Act,"
25 (including regulations and requirements issued pursuant)

thereto; as such act has been and may from time to time be
amended: and.

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3 (h) (8) The term "Federal Insurance Contributions Act"
4 means subchapter A of chapter 9 of the Federal Internal
5 Revenue Code of 1939 and subchapters A and B of chapter 21
6 of the Federal Internal Revenue Code of 1954, as such codes
7 have been and may from time to time be amended; and the term
8 memployee tax* means the tax imposed by section 1400 of such
9 Code of 1939 and section 3101 of such Code of 1954, and as
10 such codes may from time to time be amended.**

11 Section 2. Section 59-1102.1, R.C.M. 1947, is amended 12 to read as follows:

"59-1102.1. Referendum certification. 13 and 14 (1) (a) Pursuant to section 218(d)(6) of the Social Security Act, the public employees' retirement system of the 15 state of Montana shall is, for the purposes of this act, be 16 17 deced to constitute considered a separate retirement system 18 with respect to the state and a separate retirement system 19 with respect to each political subdivision having positions 20 covered thereby.

21 (b) Pursuant to section 218(p)(1) of the Social
22 Security Act, the highway patrolmen's retirement system of
23 the state of Montana, the public employees' retirement
24 system of the state of Montana, and each municipal police
25 reserve fund and each unit of the statewide police reserve

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fund of the state of Montana are, for the purposes of this act, considered separate retirement systems with respect to the state and separate retirement systems with respect to each political subdivision having positions covered thereby.

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12) With respect to employees of the state other than highway patrolmen and with respect to highway patrolmen, the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision he shall authorize a referendum upon the request of the governing body of each the subdivision, and.

(3) is In either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under this act.

(4) The notice of referendum required by section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall does considers necessary and sufficient, to informing the employees of the rights which will accrue to them and their

dependents and survivors, and the liabilities to which they
will be subject, if their services are included under an
agreement under this act.

4 (b) Pursuant to section 218 (p) (1) of the Social Security Act, the highway patrolpen o retirement system of the state of Montana, and the public employees! retirement system of the state of Mostana and the actropolitan police а retirement system of the various sities of Mentana shall, 9 for the purposes of this act to desired to constitute separate retirement systems with respect to the state and 11 separate retirement systems with respect to each political 12 subdivision having portions covered thoreby. With respect to 13 highway patrolson of the state the governor is especial to 14 authorise -- a referendum and with respect to the employees of 15 any political subdivision he shall authorise a references 16 upon request of the governing body of such subdivision and 17 in either case the referendum chall be conducted, and the 18 qovornor -- shall -- dosiquato - an -- aqonov -- or -- individual -- to 19 capervise its cosduct, is accordance with the requirements of section 218 (d) (3) of the Social Security Loty on the 20 21 question of -whother corvice is positions covered by a 22 retirement system established by the state or by a political 23 subdivision thereof should be excluded from or included 24 under this act. The notice of referender required by section 218 (d) (3) (6) of the Social Security Act to be given to

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employees shall contain or shall be aggongated by a statement, in such form and such detail as the agency or individual designated to supervise the referentes shall door secessary and sufficient, to inform the employees of the rights-which-will-accrue-to-thom and their dependents and curvivore, and the liabilities to which they will be subject, if their corrides are included under an agreement under this act.

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46-(5) Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education, and welfare."

Section 3. Section 59-1104, R.C.B. 1947, is amended to read as follows:

#59-1104. Plans for coverage of employees of political subdivisions. (a) (1) Each political subdivision of the state shall submit for approval by the state agency a plan for extending the benefits of title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such A plan and any amendment thereof shall be approved by the state agency if it finds that such the plan, or such the plan as amended, is in conformity with such requirements as are provided in regulations of the state agency------

that.

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2 (2) ne-such No plan shall may be approved unless: (4) (a) it is in conformity with the requirements of 3 the Social Security Act and with the agreement entered into under section 59-1103:

(2) (b) it provides that all services which constitute employment as defined in section 59-1102 and are performed in the employ of the political subdivisions by employees thereof, shall will be covered by the plan, except that it may exclude services performed by individuals to whom section 218(c)(3)(C) of the Social Security Act is applicable; 12

(3) (c) it specifies the source sources from which 13 the funds necessary to make the payments required by 14 peragraph (1) of subsection (c) and by subsection (d) 15 16 subsections (4) (a) and (5) are expected to be derived and 17 contains reasonable assurance that such the sources will be adequate for such purpose: 18

19 44 (d) it provides for such methods of administration 20 of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient 21 22 administration of the plan;

23 (5) (e) it provides that the political subdivision will 24 make such reports, in such form and containing such information, as the state agency may from time to time

require, and will comply with such provisions as the state agency or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports;

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(6)(f) it authorizes the state agency, in its discretion, to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such the plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the Social Security Act.

(b)(3) The state agency shell may not finally refuse to approve a plan submitted by a political subdivision under subsection (a) (1) and shell may not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(e) (4) (4) (a) Each political subdivision as to which a plan has been approved under this section shall pay, at such time or times as the state agency may prescribe by regulation, contributions with respect to wages (as defined in section 59-1102), at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable

1 agreement entered into by the state agency under section
2 59-1102-1 59-1103.

42) (b) Each political subdivision required to make payment under paragraph -- (1) -of-this subsection subsection (4) (a) shall, in consideration of the employee's retention ing or entry upong employment after enactment of this act. impose upon each of its employees, as to services which are 8 covered by an approved plan, a contribution with respect to 9 his wages (as defined in section 59-1102), not exceeding the amount of the employee tax which would be imposed by the 11 Pederal Insurance Contributions Act if such services 12 constituted employment within the meaning of that act- and 13 to shall deduct the amount of such contributions from his wages as and when paid. Contributions so collected shall 14 partially discharge the liability of such the political 15 subdivision or instrumentality under paragraph (1) -- of -- this 16 subsection subsection (4) (a). Pailure to deduct such the 17 18 contribution shall does not relieve the employee or employer 19 of liability therefor.

20 (d) (5) Delinquent payments due under paragraph (1) of
21 subsection (6) subsection (4) (a) may, with interest at the
22 rate of six per center (6%) per annua a year, be recovered
23 by action in a court of competent jurisdiction against the
24 political subdivision liable therefor, or may, at the
25 request of the state agency, be deducted from any other

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- 1 moneys payable to such the subdivision by any department,
 2 agency, or fund of the state."
- 3 Section 4. Section 59-1105, R.C.M. 1947, is amended to 4 read as follows:
- 5 m59-1105. Contribution account. (a)(1) There is
 6 hereby established, in place of the fund known as the
 7 contribution fund, a contribution account an agency account
 8 for the social security program in the agency fund, to be
- 8 for the social security program in the agency fund, to be 9 known as the contribution account.
- 10 <u>121</u> Such The contribution account shall consist of and
 11 there shall be deposited in such account:
- 12 (1) (a) all contributions, interest, and penalties
 13 collected under sections 59-1103,1 and 59-1104;
- 14 (2)(b) all moneys appropriated thereto by the
 15 legislative assembly legislature of the state of Montana;
 16 and
- 17 (3)(c) all sums recovered upon the bond of the

 18 custodian or otherwise for losses sustained by the account:

 19 and
- 20 (d) all other moneys received for the account from any21 other source.
- 22 (3) All moneys in the account shall be mingled and
 23 undivided. Subject to the provisions of this act, the state
 24 agency is vested with full power, authority, and
 25 jurisdiction over the account, including all moneys and

- 1 property or securities belonging theretog it . The board of investments shall invest the same account in investments of the same character as are permitted by section 79 1202 of this -code 79-310 for the investment of moneys in the 5 long-term investment fund. and The state agency shall credit all interest and income beretefore or bereafter earned 7 thereen on the account in excess of that which, in the its 8 judgment of the state agency, may be needed for the purposes set forth in subdivision-(b) subsection (4) of this section, 9 10 to the earmarked revenue fund or funds of the state agency, 11 to be used by it either to defray the costs of administering 12 the state agency, or for distribution pro rata to the 13 contributing state departments, political subdivisions, 14 school districts, and instrumentalities, as it may 15 determine, and It may perform any and all acts, whether or 16 not specifically designated, which are necessary to the 17 administration thereof of the account and are consistent 18 with the provisions of this act.
- 19 (b) (4) The contribution account shall be used and
 20 administered exclusively for the purpose of this act.
 21 Subject to the provisions of subdivision (a) subsection (3)
 22 of this section, withdrawals from such the account shall be
 23 made for, and solely for (4) payment of amounts required to
 24 be paid to the secretary of the treasury of the United
 25 States pursuant to an agreement entered into under section

1 59-1103+4 (B) payment of refunds provided for in section
2 59-1103.1+4 and (G) refunds of overpayments, not otherwise
3 adjustable, made by a political subdivision or
4 instrumentality.

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(e) [5] (a) From the contribution account the custodian of the account shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 59-1102-1 59-1103 and the Social Security Act.

(d)(b) The treasurer of the state shall pay all warrants drawn upon the state agency in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

(e) (6) Each department of the state shall include in its operating budget for the next succeeding fiscal year, prepared and delivered to the department of administration in accordance with the provisions of law, an estimate of the amount which it will be required to contribute to the contribution account."

Section 5. Section 59-1106, R.C.B. 1947, is amended to read as follows:

23 **59-1106. Costs of administration. All costs allocable
24 to the administration of this chapter shall be charged to
25 the earmarked revenue fund, secial security retirement

division account, and so, So such of such the costs as are 2 not defrayed by interest and income earned upon the 3 contributions fund contribution account, which has been credited to said the earmarked revenue fund, social security retirement division account, as provided in section 59-1105, shall be paid to the state agency for deposit to the 7 earmarked revenue fund, social security retirement division account, by each department of the state and by the 9 participating divisions, and instrumentalities, 10 political subdivisions of the state pro rata according to 11 their respective contributions. *

12 Section 6. Section 59-1109, R.C.H. 1947, is amended to read as follows:

14 #59-1109. Supplementation-of social-security -benefits Referendum by school district. Amy A school district of the 15 state- may, upon the approval thereof being voted by the 17 board of trustees, conduct and supervise a referendum, 18 pursuant to section 218 of the Federal Social Security Act. 19 among the members of the staff and teachers of the school or 20 schools under the jurisdiction of such the board of 21 trustees. If the majority of votes cast in asy such the 22 referendum indicates that said the staff and teachers 23 approve, then such the board of trustees shall certify to 24 the state-department of revenue (or such other agency as may be by legislation designated to administer such program and

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1 enter into agreements for extensions of social security
2 enterage) department of administration that the conditions
3 for coverage by social security, required by section 218 of
4 the Social Security Act, have been complied with."

5 Section 7. Section 59-1110, R.C.M. 1947, is amended to 6 read as follows:

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"59-1110. Eligibility of staff and teachers — payroll deductions. (1) Pursuant to such Upon the certification provided for in 59-1109, the staff and teachers of any such the district shall be are eligible for coverage under the provisions of the Federal Social Security Act, and.

thereafter collect the contributions required under the rederal Social Security Act, section 218, by payroll deduction from the staff and teachers by payroll deduction and from the school district as employer; and said. The funds and accounts collected shall be deposited with the state department of revenue, or such other agency as any be designated by the legislature to administer Social Security let coverage in this state, department of administration and held in the contributions. Fund contribution account as provided by sections 59-1101 to through 59-1108.

(3) For the purposes of this act, the contributions with respect to services, equivalent to the employer's tax established by the Federal Social Security Act, chall be are the first obligation against any state funds received for school support by any school district, high school district, or county high school, and shall first be paid therefrom before any other expenditure."

5 Section 8. Section 59-1111, R.C.H. 1947, is amended to fead as follows:

7 #59-1111. For -- purposes of ast, cash state institution A of higher education deemed to have a coparate retirement 9 system referendum administration Participation of institutions of higher eduction. (a) (1) For the purposes of 10 this section of this ast, there shall be deemed to be the 11 teachers' retirement system of the state of Montana is 12 13 considered a separate retirement system for the teachers of with respect to each state institution of higher education 14 in Montana, and each seek institution and the teachers 15 16 therein shall be treated separately and independently from 17 the other such institutions and teachers.

18 (b) (2) On request of the president of any such an 19 institution, the governor shall designate an agency or 20 individual to give notice of and supervise a referendum in 21 the retirement system for that institution in compliance 22 with the requisitor therefore requirements prescribed by 23 section 218 of the rederal Social Security Act.

24 (c) (3) If the majority of votes cast in any such the
25 referendum indicates that the majority of voters desire it,

then the governor shall certify to the federal secretary of
health, education, and welfare that each of the conditions
set forth in section 218 of the Social Security Act has have
been complied with in respect to the retirement system
voting in that the referendem.

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(d) (4) Upon such certification, the governor shall designate an official to enter into an agreement, for a modification or supplement to an existing agreement, or both such a modification and a supplement, with the appropriate officers of the federal government, pursuant to section 218 of the said Social Security Act, to secure coverage thereunder for the retirement system with respect to which such certification has been made. Such agreements An agreement may be made retroactive to the extent permissible under the Social Security Act.

(e)(5) The fiscal officer for each an institution for whose retirement system an agreement has been so made shall collect the contributions required by said section 218, as follows:

(4)(a) from the teachers in the retirement system of that institution, by payroll deductions; and

22 (2) (b) for from the state, from any appropriations to
23 the institution involved for salaries, or otherwise made
24 available, to the institution involved other purposes.

25 (6) In the absence of a specific provision in the

appropriations for, or budget of, such an institution for such contributions, the state beard of education board of recents of higher education shall designate the funds from which any such the required contributions shall will be made and the budgetary items to which they shall will be allocated.

7 (f) (7) In the event that any relevant provisions of 8 federal law are amended or superseded, then the provisions 9 hereof which relate to such law shall be applied to such the 10 amended law or such the superseding law."

11 Section 9. Section 59-1112, R.C.H. 1947, is amended to 12 read as follows:

13 *59-1112. Social security soverage not to prejudice 14 ether No effect on rights under other laws. Nothing in this 15 act shall may be construed to prejudice or otherwise affect 16 any rights, benefits, or privileges heretofore accrued under any other law of this state; it being. It is the intent of 17 this legislation to permit supplementation of present 19 retirement benefits under existing law with social security 20 benefits, and, It is also the intent to permit members of teaching or staff personnel teachers and staff in any 21 22 district or institution of higher education, so electing, to 23 become a-member members of more than one retirement system, to receive credit under more than one system for the same service, and to receive benefits from more than one such

- 1 system, and no benefits received under either system
- 2 shell may be deducted from any other or separate system."

-End-

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2	INTRODUCED BY BARDANOUVE
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIPY THE LAWS RELATING TO COVERAGE FOR HONTANA PUBLIC
6	EMPLOYEES UNDER FEDERAL SOCIAL SECURITY; AMENDING SECTIONS
7	59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
8	59-1110, 59-1111, AND 59-1112, R.C.M. 1947."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HOUTAWA:
11	Section 1. Section 59-1102, R.C.M. 1947, is amended to
12	read as follows:
13	"59-1102. Definitions. For the purposes of this act— $_{\mathcal{L}}$
14	the following definitions apply:
15	(a) [1] The term "wages" means all remuneration for
16	employment as defined herein, including the cash walue of
17	all remuneration paid in any medium other than cash, except
18	that such the term shall does not include that part of such
19	remnneration which, even if it were for "employment" within
20	the meaning of the Federal Insurance Contributions Act,
21	would not constitute "wages" within the meaning of that
22	act+ <u>.</u>
23	(b) (2) (a) The term "employment" means any service
24	performed by an employee in the employ of the state, or any
25	political subdivision thereof, for such employer, except;

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2 entered into under this act would constitute "employment" as defined in the Social Security Act: or-3 (2) (ii) service which under the Social Security Act may 5 not be included in an agreement between the state and the secretary of health, education, and welfare entered into under this act. (b) Service performed by civilian employees of 9 national quard units is specifically included within the 10 term "employment-". 11 (c) Service which under the Social Security Act may be 12 included in an agreement only upon certification by the 13 governor in accordance with section 218(d)(3) of that act 14 shall- be is included in the term "employment" if and when 15 the governor issues, with respect to such service, a 16 certificate to the secretary of health, education, and 17 welfare pursuant to section 59-1102.1-(b)+(5). 18 (c) (3) The term "employee" includes an elective or 19 appointive officer or employee of the state or a political 20 subdivision thereof+. 21 (4) (4) The term "state agency" means the board of 22 administration of the public employees' retirement system of 23 the state of Montana. 24 (e) (5) The term "secretary of health, education, and 25 welfare" means the secretary of the United States department

(1) (i) service which in the absence of an agreement

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1 of health, education, and welfare; and includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the Social Security Act with respect to coverage under such that act of employees of states and their political subdivisions, and, with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such the administrator had delegated any such functions.

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(f) (6) The term "political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues associations thereof, but only if such the instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such the juristic entity employees of the state or subdivision. The term shell include includes special districts or authorities created by the legislature or local governments, such as, but not limited to, school districts, housing authorities, etc.+

(5) (7) The term "Social Security Act" means the act of Congress congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Acty". fincluding regulations and requirements issued pursuant

thereto-, as such act has been and may from time to time be amended--and.

(h) (8) The term "Federal Insurance Contributions Act" 3 means subchapter a of chapter 9 of the Federal Internal Revenue Code of 1939 and subchapters & and B of chapter 21 of the Pederal Internal Revenue Code of 1954, as such codes have been and may from time to time be amended; and the term memployee tarm means the tax imposed by section 1400 of such Code of 1939 and section 3101 of such Code of 1954, and as 9 10 such codes may from time to time be amended."

Section 2. Section 59-1102.1, R.C.H. 1947, is amended 11 to read as follows: 12

13 *59-1102.1. Referendum and certification. 14 (1) (a) Pursuant to section 218(d)(6) of the Social 15 Security Act, the public employees' retirement system of the 16 state of Montana shall is, for the purposes of this act, be decred to constitute considered a separate retirement system 17 18 with respect to the state and a separate retirement system 19 with respect to each political subdivision having positions 20 covered thereby.

21 (b) Pursuant to section 218(p)(1)of the Social 22 Security Act, the highway patrolmen's retirement system of 23 the state of Montana, the public employees' retirement 24 system of the state of Montana, and each municipal police 25 reserve fund and each unit of the statewide police reserve

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fund of the state of Montana are, for the purposes of this act, considered separate retirement systems with respect to the state and separate retirement systems with respect to each political subdivision having positions covered thereby.

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- 121 With respect to employees of the state other than highway patrolmen and with respect to highway patrolmen, the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision he shall authorize a referendum upon the request of the governing body of such the subdivision—and.
- (3) in In either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under this act.
- (4) The notice of referendum required by section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall does considers necessary and sufficient, to informing the employees of the rights which will accrue to them and their

- dependents and survivors, and the liabilities to which they
 will be subject, if their services are included under an
 agreement under this act.
- (b) Pursuant to costion 218 (p) (1) of the Social 5 Sectrity--10ty--the-bighway-patrolmen's-retirement-system-of the state of Mentana, and the public completees! retirement 7 system of the state of Sentana and the metropolitan-police Estimonent system of the various sities of Montana shall, for the purposes of this tet be desed to constitute 10 separate retirement systems with respect to the state and 11 separate __retirement __systems with respect to each political 12 subdivision baving portions severed thoreby. With respect to 13 highway patrolson of the state the geversor is enveyored ... to 14 atthorise -- a-referendum-and-with-respect-to-the-employees-of 15 any-political subdivision to shall authorize a referendan upon -request of the governing bedy of such subdivision and 16 17 in either case the referender shall be gonducted, -and the 18 coveres shall designate as agency or individual to 19 supervise its conducty in accordance with the requirements 20 of section 218 (4) (3) of the Social Security lot, or the 21 question of whother corvide is positions severed by a 22 retirement system ostablished by the state or by a relitical 23 subdivision thereof should be excluded from or included 24 wader this act. The actice of referendum required by section 25 218 (d) (3) (6) of the Secial Security let to be given to

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osployees shall contain or shall be accompanied by a

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individual designated to supervise the referendum shall does

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rights which will account them and their dependents and

servitors, and the liabilities to which they will be

subject, if their services are included under an agreement

ander this act.

(6) (5) Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education, and welfare.

14 Section 3. Section 59-1104, B.C.E. 1947, is amended to 15 read as follows:

*59-1104. Plans for coverage of employees of political subdivisions. (a) (1) Each political subdivision of the state shall submit for approval by the state agency a plan for extending the benefits of title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such it plan and any amendment thereof shall be approved by the state agency if it finds that such the plan, or such the plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except

that

2 (2) no such No plan shall may be approved unless:

3 (4)(a) it is in conformity with the requirements of

4 the Social Security Act and with the agreement entered into

5 under section 59-1103;

(2) (b) it provides that all services which constitute employment as defined in section 59-1102 and are performed in the employ of the political subdivisions by employees thereof, shell will be covered by the plan, except that it may exclude services performed by individuals to whom section 218(c)(3)(C) of the Social Security Act is applicable;

(3) (c) it specifies the source or sources from which the funds necessary to make the payments required by paregraph (1) of subsection (c) and by subsection (d) subsections (4) (a) and (5) are expected to be derived and contains reasonable assurance that such the sources will be adequate for such purpose:

19 (4)(d) it provides for such methods of administration
20 of the plan by the political subdivision as are found by the
21 state agency to be necessary for the proper and efficient
22 administration of the plan;

23 (5) (e) it provides that the political subdivision will
24 make such reports, in such form and containing such
25 information, as the state agency may from time to time

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require- and will comply with such provisions as the state 1 agency or the secretary of health, education, and welfare may from time to time find necessary to assure the 3 correctness and verification of such reports; 5 (6) (f) it authorizes the state agency, in its

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discretion, to terminate the plan in its entirety--in-the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in each the plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the Social Security Act.

(b) (3) The state agency shall may not finally refuse to approve a plan submitted by a political subdivision under subsection (a), (1) and shall may not terminate an approved plan- without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(e) (1) (4) (a) Each political subdivision as to which a plan has been approved under this section shall pay, at such time or times as the state agency may prescribe by regulation, contributions with respect to wages (as defined in section 59-1102) - at such time -or -times -as -the -state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable 1 agreement entered into by the state agency under section 59-1102-1 59-1103.

LC 0025/01

3 (3) (b) Each political subdivision required to make payment under paragraph (1) of this subsection subsection (4) (a) shall, im consideration of the employee's retention ing or entry upong employment after enactment of this act. impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages (as defined in section 59-1102), not exceeding the 10 amount of the employee tax which would be imposed by the 11 Federal Insurance Contributions Act if such services 12 constituted employment within the meaning of that act, and 13 to shall deduct the amount of such contributions from his 14 wages as and when paid. Contributions so collected shall 15 partially discharge the liability of such the political 16 subdivision or instrumentality under paragraph (1) of this 17 subsection (4) (a). Failure to deduct each the contribution shall does not relieve the employee or employer 19 of liability therefor.

(d) (5) Delinquent payments due under paragraph (1) of subsection (4) (a) may, with interest at the rate of six per centur (6%) per annua a year, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor, or may, at the request of the state agency, be deducted from any other

noneys payable to such the subdivision by any department,
agency, or fund of the state."

- 3 Section 4. Section 59-1105, R.C.H. 1947, is amended to 4 read as follows:
- 5 #59-1105. Contribution account. (a) (1) There is
 6 hereby established, in place of the fund known as the
 7 contribution fund, a contribution account an agency account
 8 for the social security program in the agency fund, to be
 9 known as the contribution account.
- 10 <u>(2)</u> Such The contribution account shall consist of and 11 there shall be deposited in such account:
- 12 (1) (a) all contributions, interest, and penalties
 13 collected under coetions 59-1103.1 and 59-1104:
- 14 (2)(b) all momeys appropriated thereto by the
 15 legislative assembly legislature of the state of Homtana;
 16 and
- 17 (3)(c) all sums recovered upon the bond of the
 18 custodian or otherwise for losses sustained by the account;
 19 and
- 20 (d) all other moneys received for the account from any
 21 other source.
- 22 (3) All moneys in the account shall be mingled and
 23 undivided. Subject to the provisions of this act, the state
 24 agency is vested with full power, authority, and
 25 jurisdiction over the account, including all moneys and

- property or securities belonging theretor it . The board of investments shall invest the same account in investments of 3 the same character as are permitted by section 79-1202 of this code 79-310 for the investment of moneys in the long-term investment fund, and The state agency shall credit all interest and income beretofore or bereafter earned thereen on the account in excess of that which, in the its judgment of the state agency, may be needed for the purposes set forth in subdivision-(b) subsection (4) of this section, to the earmarked revenue fund or funds of the state agency, 10 11 to be used by it either to defray the costs of administering the state agency, or for distribution pro rata to the 12 13 contributing state departments, political subdivisions, school districts, and instrumentalities, as it may 14 15 determine, and, It may perform any and all acts, whether or 16 not specifically designated, which are necessary to the 17 administration thereof of the account and are consistent 18 with the provisions of this act.
- 19 (b) (4) The contribution account shall be used and
 20 administered exclusively for the purpose of this act.
 21 Subject to the provisions of sebdivision (a) subsection (3)
 22 of this section, withdrawals from such the account shall be
 23 made for, and solely for, (a) payment of amounts required to
 24 ' be paid to the secretary of the treasury of the United
 25 States pursuant to an agreement entered into under section

1 59-1103+2 (B) payment of refunds provided for in section
2 59-1103.1+2 and (C) refunds of overpayments, not otherwise
3 adjustable, made by a political subdivision or
4 instrumentality.

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(e) (5) (a) From the contribution account the custodian of the account shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 59-1102-1 59-1103 and the Social Security Act.

(4)(b) The treasurer of the state shall pay all warrants drawn upon the state agency in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

(e) (6) Each department of the state shall include in its operating budget for the next succeeding fiscal year, prepared and delivered to the department of administration in accordance with the provisions of law, an estimate of the amount which it will be required to contribute to the contribution account."

21 Section 5. Section 59-1106, R.C.M. 1947, is amended to 22 read as follows:

23 *59-1106. Costs of administration. All costs allocable
24 to the administration of this chapter shall be charged to
25 the earmarked revenue fund, social social retirement

division account, and so, So such of such the costs as are not defrayed by interest and income earned upon the 2 3 contributions fund contribution account, which has been credited to said the earmarked revenue fund, social security retirement division account, as provided in section 59-1105, shall be paid to the state ageacy for deposit to the earmarked revenue fund, social socurity retirement division 7 account, by each department of the state and by the participating divisions, and instrumentalities, and 10 political subdivisions of the state pro rata according to their respective contributions. * 11

12 Section 6. Section 59-1109, R.C.E. 1947, is amended to 13 read as follows:

"59-1109. Supplementation of social security -bonefits 14 15 Referendum by school district. has a school district of the state, may, upon the approval thereof being voted by the 16 board of trustees, conduct and supervise a referendum, 17 pursuant to section 218 of the Federal Social Security Act, 18 among the members of the staff and teachers of the school or 19 schools under the jurisdiction of such the board of 20 trustees. If the majority of votes cast in asy such the 21 referendum indicates that said the staff and teachers 22 23 approve, then seek the board of trustees shall certify to the state-department-of-revenue (or-such-other-agency-as-may 24 be-by-legislation designated to administer such program-and 25

enter into agreementa for extensions of social security

coverage) department of administration that the conditions

for coverage by social security, required by section 218 of

the Social Security Act, have been complied with."

5 Section 7. Section 59-1110, R.C.H. 1947, is amended to 6 read as follows:

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#59-1110. Eligibility of staff and teachers — payroll deductions. (1) Parsuant to such Upon the certification provided for in 59-1109, the staff and teachers of any such the district shall be are eligible for coverage under the provisions of the Federal Social Security act, and.

thereafter collect the contributions required under the Pederal Social Security Act, section 218, by payroll deduction and from the staff and teachers by payroll deduction and from the school district as employer; and said. The funds and accounts collected shall be deposited with the state department of revenue, or such other agency as may be designated by the legislature to administration and held in the contributions! fund contribution account as provided by sections 59-1101 to through 59-1108.

(3) For the purposes of this act, the contributions with respect to services, equivalent to the employer's tax established by the Pederal Social Security Act, shall be are

the first obligation against any state funds received for school support by any school district, high school district.

or county high school, and shall first be paid therefrom before any other expenditure.

5 Section 8. Section 59-1111, R.C.H. 1947, is amended to read as follows:

7 "59-1111. For--purposes of asty each state-institution of higher education decade to have a separate retirement states - referendus - administration Participation of 10 institutions of higher eduction. (a) (1) For the purposes of 11 this section of this act, there shall be deemed to be the 12 teachers' retirement system of the state of Montana is 13 considered a separate retirement system for the teachers of 14 with respect to each state institution of higher education 15 in Montana, and each each institution and the teachers therein shall be treated separately and independently from 16 17 the other such institutions and teachers.

18 (b) (2) On request of the president of any such an 19 institution, the governor shall designate an agency or 20 individual to give notice of and supervise a referendum in 21 the retirement system for that institution in compliance 22 with the requisitor—therefore requirements prescribed by 23 section 218 of the rederal Social Security Act.

24 · (e)(3) If the majority of votes cast in any such the
25 referendum indicates that the majority of voters desire it,

then the governor shall certify to the federal secretary of health, education, and welfare that each of the conditions set forth in section 218 of the Social Security Act has have been complied with in respect to the retirement system woting in that the referendum.

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(d) (4) Upon such certification, the governor shall designate an official to enter into an agreement, for a modification or supplement to an existing agreement, or both such a modification and a supplement, with the appropriate officers of the federal government, pursuant to section 218 of the said Social Security Act, to secure coverage thereunder for the retirement system with respect to which such certification has been made. Such agreement An agreement may be made retroactive to the extent permissible under the Social Security Act.

(e) (5) The fiscal officer for each an institution for whose retirement system an agreement has been so made shall collect the contributions required by said section 218, as follows:

20 (+) (a) from the teachers in the retirement system of 21 that institution, by payroll deductions; and

(2) (b) for from the state, from any appropriations to the institution involved for salaries, or atherwise made available, to the institution involved other purposes.

16) In the absence of a specific provision in the

appropriations for, or budget of, such an institution for such contributions, the state beard of education board of regents of higher education shall designate the funds from which any such the required contributions shall will be made and the budgetary items to which they shall will be allocated.

7 (f) (7) In the event that any relevant provisions of 8 federal law are amended or superseded, then the provisions 9 hereof which relate to such law shall be applied to such the 10 amended law or such the superseding law."

11 Section 9. Section 59-1112, R.C.M. 1947, is amended to 12 read as follows:

13 #59-1112. Social security coverage not to prejudice 14 other No effect on rights under other laws. Nothing in this 15 act shall may be construed to prejudice or otherwise affect 16 any rights, benefits, or privileges heretofore accrued under 17 any other law of this state; it being. It is the intent of 18 this legislation to permit supplementation of present 19 retirement benefits under existing law with social security 20 benefits, and, It is also the intent to permit members of 21 toaching or staff personnel teachers and staff in any 22 district or institution of higher education, so electing, to 23 become a member members of more than one retirement system, 24 to receive credit under more than one system for the same service, and to receive benefits from more than one such

- 1 system and me, me benefits received under either system
- 2 shall may be deducted from any other or separate system."

-End-

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1	HOUSE BILL NO. 35
2	INTRODUCED BY BARDANOUVE
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO COVERAGE FOR MONTANA PUBLIC
6	EMPLOYEES UNDER FEDERAL SOCIAL SECURITY; AMENDING SECTIONS
7	59-1102, 59-1102.1, 59-1104, 59-1105, 59-1106, 59-1109,
8	59-1110, 59-1111, AND 59-1112, RaCaMa 1947a*
9	
0	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1	Section 1. Section 59-1102, R.C.M. 1947, is amended to
12	read as follows:
13	*59-1102. Definitions. For the purposes of this act
4	the following definitions apply:
15	(a)(1) The term "wages" means all remuneration for
6	employment as defined herein, including the cash value of
17	all remuneration paid in any medium other than cash, except
19	that such the term shall does not include that part of such
19	remuneration which, even if it were for "employment" within
20	tne meaning of the Federal Insurance Contributions Act,
? L	would not constitute "wages" within the meaning of that
?2	act _%
23	(b)(2) (a) The term "employment" means any service
24	performed by an employee in the employ of the state, or any
25	political subdivision thereofy for such employer, except≟

1	<pre>ftf(i) service which in the absence of an agreement</pre>
2	entered into under this act would constitute "employment" as
3	defined in the Social Security Act; ory
4	(2)(ii) service which under the Social Security Act may
5	not be included in an agreement between the state and the
6	secretary of health, education, and welfare entered into
i	under this act.
8	(b) Service performed by civilian employees of
9	national guard units is specifically included within the
10	term "employment".
11	(c) Service which under the Social Security Act may be
12	included in an agreement only upon certification by the
13	governor in accordance with section 218(d)(3) of that act
14	emethanhee is included in the term "employment" if and when
15	the governor issues, with respect to such service, a
16	certificate to the secretary of health, education, and
17	welfare pursuant to section 59-1102-1(b); (5).
18	(c)(3) The term "employee" includes an elective or
19	appointive officer or employee of the state or a political
20	subdivision thereofts
21	(d)(4) The term "state agency" means the board of
22	administration of the public employees* retirement system of
23	the state of Montanats
24	(e)[5] The term "secretary of health, education, and

welfare" means the secretary of the United States department

of health, education, and welfare; and includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the Social Security Act with respect to coverage under such that act of employees of states and their political subdivisions; and, with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such the administrator had delegated any such functions.

instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations thereof, but only if such the instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such the juristic entity employees of the state or subdivision. The term shall includes special districts or authorities created by the legislature or local governments, such as, but not limited to, school districts, housing authorities, etc. t

tgt(1) The term "Social Security Act" means the act of Eongress congress approved August 14, 1935, chapter 531, 49
Stat. 620, officially cited as the "Social Security Acty".
tincluding regulations and requirements issued pursuant

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thereto; as such act has been and may from time to time be amended; and

this is the term "Federal Insurance Contributions Act"

means subchapter A of chapter 9 of the Federal Internal

Revenue Code of 1939 and subchapters A and B of chapter 21

of the Federal Internal Revenue Code of 1954, as such codes

have been and may from time to time be amended; and the term

"employee tax" means the tax imposed by section 1400 of such

Code of 1939 and section 3101 of such Code of 1954, and as

such codes may from time to time be amended."

12 Section 2. Section 59-1102.1, R.C.M. 1947, is amended 12 to read as follows:

*59-1102.1. Referendum and certification. (1) (a) Pursuant to section 218(d)(6) of the Social Security Act, the public employees' retirement system of the state of Montana small is, for the purposes of this act, be deemed-to-constitute considered a separate retirement system with respect to the state and a separate retirement system with respect to each political subdivision having positions covered thereby.

(b) Pursuant to section 218(p)(1) of the Social Security Act: the highway patrolmen's retirement system of the state of Montana: the public employees' retirement system of the state of Montana: and each municipal police reserve fund and each unit of the statewide police reserve

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tund of the state of Montana are, for the purposes of this act, considered separate retirement systems with respect to the state and separate retirement systems with respect to each political subdivision having positions covered thereby.

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highway patrolmen and with respect to highway patrolmen, the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision he shall authorize a referendum upon the request of the governing body of such the subdivision?—and.

(3) in In either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under this act.

141 The notice of referendum required by section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall—deem considers necessary and sufficient, to-inform informing the employees of the rights which will accrue to them and their

dependents and survivorsy and the liabilities to which they will be subjecty if their services are included under an agreement under this act.

fb}--Pursuant--to--section--218fp}fl}--of--the---Social Security--Acty--the-highway-patrolments-retirement-system-of the-state-of-Kontanay-and-the-public--employees*--retirement system--of--the-state-of-Montana-and-the-metropoliton-police retirement-system-of-the-various-cities--of--Montana--shally far--the--purposes--of--this--act--be--deemed--to-constitute separate-retirement-systems-with-respect-to--the--state--ond separate--retirement--systems-with-respect-to-each-political subdivision-having-portions-covered-therebyw-With-respect-to highway-patrolmen-of-the-state-the-governor-is-empowered--to authorize--o-referendum-and-with-respect-to-the-employees-of ony-political-subdivision-he-shall--outhorize--a--referendum upon--request--of-the-governing-body-of-such-subdivision-and in-either-case-the-referendum-shall-be--conductedy--and--the governor---shall---designate--an--agency--or--individual--to supervise-its-conducty-in-accordance-with--the--requirements of--section--218--(d)-(3)-of-the-Social-Security-Acty-on-the question-of--whether--service--in--positions--covered--by--s retirement-system-established-by-the-state-or-by-a-political subdivision--thereof--should--be--excluded--from-or-included under-this-acts-ine-notice-of-referendum-required-by-section 218-131-131-161-of-the-Social-Security-Act-to-be-given-to

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that.

employeesshallcontainorshallbeaccompaniedbya
statementy-in-such-form-and-such-detailastheagencyor
individual-designated-to-supervise-the-referendum-shall-deem
necessaryandsufficientytoinform-the-employees-of-the
rights-which-will-accrue-to-them-andtheirdepandentsand
survivorsyandtheliabilitiestowhichtheywillbe
subjecty-if-their-services-are-included-underanagreement
under-this-acty

tet15) Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education, and welfare.**

Section 3. Section 59-1104, R.C.M. 1947, is amended to read as follows:

**59-1104. Plans for coverage of employees of political subdivisions. <code>{e}_{11}</code> Each political subdivision of the state shall submit for approval by the state agency a plan for extending the benefits of <code>title litle li</code> of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. <code>Each such A plan</code> and any amendment thereof shall be approved by the state agency if it finds that <code>such the plan</code> or <code>such the plan</code> as amended, is in conformity with such requirements as are provided in regulations of the state agency—except

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2	(2) no-such No plan shall may be approved unless:
3	(1)(a) it is in conformity with the requirements of
4	the Social Security Act and with the agreement entered int
5	under section 59-1103;
6	$\frac{(2)(b)}{(b)}$ it provides that all services which constitute
7	employment as defined in section 59-1102 and are performe
8	in the employ of the political subdivisions by employee
9	thereofy-shall will be covered by the plan, except that i
10	may exclude services performed by individuals to who
11	section 218(c)(3)(C) of the Social Security Act i
12	applicable;
13	(3)(c) it specifies the source-or sources from which
14	the funds necessary to make the payments required b
15	paragraph{ l}ofsubsection{c}andbysubsection-(d
16	subsections (4)(a) and (5) are expected to be derived an
17	contains reasonable assurance that such the sources will b
18	adequate for such purpose;

administration of the plan;

(5)(e) it provides that the political subdivision will

make such reports, in such form and containing such
information, as the state agency may from time to time

14)(d) it provides for such methods of administration

of the plan by the political subdivision as are found by the

state agency to be necessary for the proper and efficient

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requirew and will comply with such provisions as the state agency or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports:

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to terminate the plan in its entirety——in—the discretion—of—the—state—agency—if it finds that there has been a failure to comply substantially with any provision contained in such the plan—such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the Social Security Act.

to approve a plan submitted by a political subdivision under subsection tale (11) and shall may not terminate an approved plany without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

te)-ft)(4) (a) Each political subdivision as to which a plan has been approved under this section shall payabs such time or times as the state agency may prescribe by regulation. contributions with respect to wages (as defined in section 59-1102) v-at-such-time-or-times-os-the-state agency-may-by-regulation-prescribe contributions in the amounts and at the rates specified in the applicable

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agreement entered into by the state agency under section

59-1102-1 59-1103-

3 f2)(b) Each political subdivision required to make payment under paragraph--fil-of-this-subsection subsection (4)(a) shall, in consideration of the employee's retention ing or entry upong employment after enactment of this act. ı' impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to 9 his wages (as defined in section 59-1102), not exceeding the 10 amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if such services 11 constituted employment within the meaning of that acty and 12 13 to shall deduct the amount of such contributions from his wages as and when paid. Contributions so collected shall 14 partially discharge the liability of such the political 15 16 subdivision or instrumentality under peragraph-(1)--of--this 17 subsection subsection [4][a]. Failure to deduct such the contribution shall does not relieve the employee or employer 18 19 of liability therefor.

td+(5) Delinquent payments due under paragraph-(1)-of
subsection-(c) subsection (4)(a) may, with interest at the
rate of six-per-centum-(6%)-per-annum a year, be recovered
by action in a court of competent jurisdiction against the
political subdivision liable therefor, or may, at the
request of the state agency, be deducted from any other

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- moneys payable to such the subdivision by any department.

 agency, or fund of the state.*
- 3 Section 4. Section 59-1105. R.C.M. 1947, is amended to 4 read as follows:
- 5 #59-1105. Contribution account. (a)(1) There is
 6 hereby established, in place of the fund known as the
 7 contribution fund, a-contribution-account an agency account
 8 for the social security program in the agency fund, to be
 9 known as the contribution account.
- 10 (2) Such The contribution account shall consist of and
 11 there shall be deposited in such account:
- 12 <u>tij(a)</u> all contributions, interest, and penalties 13 collected under sections 59-1103,1 and 59-1104;
- 14 <u>+2}(b)</u> all moneys appropriated thereto by the
 15 <u>+egristative--assembly legislature</u> of the state of Montana;
 16 and
- 17 t31(c) all sums recovered upon the bond of the

 18 custodian or otherwise for losses sustained by the account:

 19 and
- 20 (d) all other moneys received for the account from any 21 other source.
- 22 131 All moneys in the account shall be mingled and undivided. Subject to the provisions of this act, the state 24 agency is vested with full power, authority, and jurisdiction over the account, including all moneys and

ì	property or securities belonging theretote it Ine board o
2	<u>investments</u> shall invest the same <u>account</u> in investments o
3	the same character as are permitted by section79-1202o
4	thiscode 79-310 for the investment of moneys in th
5	long-term investment fund <u>a and The state agency</u> shall credi
6	all interest and income heretoforeorhereafter earne
7	thereon on the account in excess of that which, in the it
8	judgment of-the-state-agency , may be needed for the purpose
9	set forth in subdivision-(b) subsection (4) of this section
10	to the earmarked revenue fund or funds of the state agency
11	to be used by it either to defray the costs of administering
12	the state agency, or for distribution pro rata to the
13	contributing state departments, political subdivisions
14	school districts, and instrumentalities, as it may
15	determiney-andIt may perform any and all acts_ whether of
16	not specifically designated, which are necessary to the
17	administration thereof of the account and are consistent
18	with the provisions of this act.

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59-11034: (8) payment of refunds provided for in section 59-1103-114 and f6) refunds of overpayments, not otherwise ad justable. made by a political subdivision or instrumentality.

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tet[5] [a] From the contribution account the custodian of the account shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section-59-1102v1 59-1103 and the Social Security Act.

tat(b) The treasurer of the state shall pay all warrants drawn upon the state agency in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

tet(6) Each department of the state shall include in its operating budget for the next succeeding fiscal year, prepared and delivered to the department of administration in accordance with the provisions of law, an estimate of the amount which it will be required to contribute to the contribution account.™

Section 5. Section 59-1106, R.C.M. 1947, is amended to read as follows:

#59-1106. Costs of administration. All costs allocable to the administration of this chapter shall be charged to the earmarked revenue fund, social-security retirement

division accounty-and-so. So such of such the costs as are not defrayed by interest and income earned upon the contributions-fund contribution account: which has been 3 credited to said the earmarked revenue fund. social-security retirement division account, as provided in section 59-1105, shall be paid to the state agency for deposit to the earwarked revenue fund, secial-security retirement division accounts by each department of the state and by the participatino divisions, and instrumentalities, political subdivisions of the state pro rata according to 10 11 their respective contributions.*

12 Section 6. Section 59-1109, R.C.M. 1947, is amended to 13 read as follows:

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#59-1109. Supplementation-of-social-security--benefits Referendum by school district. Any A school district of the state, may, upon the approval thereof being voted by the board of trustees, conduct and supervise a referendume pursuant to section 218 of the Federal Social Security Act. among the members of the staff and teachers of the school or schools under the jurisdiction of such the board of trustees. If the majority of votes cast in any -such the referendum indicates that said the staff and teachers approve, then such the board of trustees shall certify to the state-department-of-revenue-for-such-other-agency-as-may be--by-legislation-designated-to-administer-such-program-and H8 0035/02

enter-into-agreements--for--extensions--of--social--security
coverage) department of administration that the conditions
for coverage by social security, required by section 218 of
the Social Security Acts have been complied with.**

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5 Section 7. Section 59-1110, R.C.M. 1947, is amended to fead as follows:

#59-1110. Eligibility of staff and teachers — payroll deductions. (1) Pursuant—to—such Upon the certification provided for in 59-1109, the staff and teachers of any—such the district shall—be are eligible for coverage under the provisions of the Federal Social Security Acty—and.

thereafter collect the contributions required under the federal Social Security Act, section 218, by——payroll deduction from the staff and teachers by payroll deduction and from the school district as employer—and—said, The funds and—accounts collected shall be deposited with the state-department-of-revenuev or—such other—agency—as—may—be designated—by—the—legislature—to—administer—Social—Security Act—coverage—in—this—states department of administration and held in the contributions——fund contribution account as provided by sections 59-1101 to through 59-1108.

131 For the purposes of this act, the contributions with respect to services, equivalent to the employer's tax established by the Federal Social Security Act, shall-be are

the first obligation against any state funds received for school support by any school district, high school district, or county high school, and shall first be paid therefrom before any other expenditure.

Section 8. Section 59-1111, R.C.M. 1947, is amended to read as follows:

*59-1111. For--purposes-of-acty-each-state-institution of-higher-education-deemed-to--have--a--separate--retirement system--referendum--administration Participation of institutions of higher education. (a)(1) For the purposes 10 of this section of-this-act, there-shall-be-deemed-to-be the 11 teachers' retirement system of the state of Montana is 12 considered a separate retirement system for-the-teachers--of 13 with respect to each state institution of higher education 14 in Montana, and each such institution and the teachers 15 therein shall be treated separately and independently from 16 the other such institutions and teachers. 17

thick thick the governor shall designate an agency or individual to give notice of and supervise a referendum in the retirement system for that institution in compliance with the requisites—therefore requirements prescribed by section 218 of the Federal Social Security Act.

24 (c)(3) If the majority of votes cast in any such the
25 referendum indicates that the majority of voters desire it.

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then the governor shall certify to the federal secretary of health, education, and welfare that each-of the conditions set forth in section 218 of the Social Security Act has have been complied with in respect to the retirement system voting in that the referendum.

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 tdf(4) Upon such certification, the governor shall designate an official to enter into an agreement, for a modification or supplement to an existing agreement, or both such a modification and a supplement, with the appropriate officers of the federal government, pursuant to section 218 of the said Social Security Act, to secure coverage thereunder for the retirement system with respect to which such certification has been made. Such-agreements An agreement may be made retroactive to the extent permissible under the Social Security Act.

tej(5) The fiscal officer for each an institution for whose retirement system an agreement has been so made shall collect the contributions required by said section 218_{\pm} as follows:

that institution, by payroll deductions; and

the institution involved for salaries or otherwise-made available to-the-institution involved ather purposes.

25 (6) In the absence of a specific provision in the

appropriations forw or budget of v-such an institution for such contributions, the state-board-of-education board of regents of higher education shall designate the funds from which env-such the required contributions shall will be made and the budgetary items to which they shall will be allocated.

ft)(1) In the event that any relevant provisions of
federal law are amended or superseded, then the provisions
hereof which relate to such law shall be applied to such the
amended law or such the superseding law."

11 Section 9. Section 59-1112, R.C.M. 1947, is amended to 12 read as follows:

*59-1112. Social—security—coverage—not—to prejudice other No effect on rights under other laws. Nothing in this act shell may be construed to prejudice or otherwise affect any rights, benefits, or privileges heretofore accrued under any other law of this state;—it—being. It is the intent of this legislation to permit supplementation of present retirement benefits under existing law with social security benefits;—end. It is also the intent to permit members—of teaching—or—stoff—personnel teachers and staff in any district or institution of higher education, so electing, to become e-member members of more than one retirement system; to receive credit under more than one system for the same service, and to receive benefits from more than one such

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- 1 systemy-and-no. No benefits received under either system
- 2 shell may be deducted from any other or separate system.™

-End-